

CALIFORNIA CONTRACTORS STATE LICENSE BOARD
15-DAY NOTICE OF MODIFIED TEXT

NOTICE IS HEREBY GIVEN that the California Contractors State License Board has proposed modifications to the text of Section 868, 869, and 869.9 of the California Code of Regulations which was the subject of a regulatory hearing on December 13, 2005. A copy of the modified text follows below. Any person who wishes to comment on the proposed modifications may do so by submitting written comments on or before March 28, 2006 at 3:00 p.m. to the following:

Betsy Figueira, Information Officer I
California Contractors State License Board
9821 Business Park Drive
Sacramento, CA 95827

Changes for originally proposed language are shown in black with underline for added text and in ~~black~~ with strikethrough for deleted text.

Changes for the modified proposed language are shown in blue with double underline for newly added text, in ~~blue~~ with double strikethrough for newly deleted text, in ~~blue~~ with strikethrough and double underline for text that was originally proposed as deleted text but is now being modified to be retained, and ~~blue~~ with double strikethrough and single underline for text that was originally proposed as added text but is now being modified to be removed.

Article 7. Special Provisions

Amend Section 868 as follows:

§ 868. Criteria to Aid in Determining if ~~Acts or Crimes~~ Acts Are Substantially Related to Contracting Business.

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a ~~contractor~~ licensee (under Division 3, Chapter 9 of the code), if ~~to a substantial degree, it evidences present or potential unfitness of an applicant or contractor licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or and~~ and welfare. The crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 9 of Division 3 of the code.

~~(b) Submitting false vouchers to obtain construction loan funds and not using the funds for purpose for which the claim was submitted.~~

~~(c) Willfully rebating to or on behalf of anyone contracting with a licensee, any part of money tendered the licensee for the provision of services, labor, materials or equipment.~~

~~(d) Theft of building materials or equipment for use on a construction project.~~

~~(e)(b)~~ Failure to comply with the provisions of the California Administrative Code, Chapter 8, Title 16.

(c) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another.

(d) Crimes or acts involving physical violence against persons.

(e) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

NOTE: Authority cited: Sections 481 and 7008, Business and Professions Code. Reference: Sections 480, 481, 490, 7066, ~~7067~~, and 7069, 7073, 7090, 7123, and 7124, Business and Professions Code.

Amend Section 869 as follows:

§ 869. Criteria for Rehabilitation.

(a) When considering the denial, suspension, or revocation of a contractor's license pursuant to Division 1.5 (commencing with Section 475) of the code ~~or home improvement salesman's registration under Section 480 of the code~~, the Board, in evaluating the applicant's ~~or licensee's~~ rehabilitation and present eligibility for a license ~~or registration~~ will consider the following criteria:

(1) Subject to the provisions of subsection (a)(2), an applicant or licensee may be determined rehabilitated if he or she meets the following criteria:

(A) For felony convictions that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, seven (7) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional criminal activity or substantially-related acts.

(B) For misdemeanor convictions that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, three (3) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional criminal activity or substantially-related acts.

(C) For acts that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, three (3) years have passed from the time of commission of the act(s), without the occurrence of criminal activity or additional substantially-related acts.

(2) The amount of time needed to demonstrate rehabilitation under subsection (a)(1) may be increased or decreased by taking into account the following:

(4A) The nature and severity of the crime(s) or act(s) or crime(s) ~~that are~~ under consideration as ~~or that were, the~~ grounds for denial, suspension, or revocation.

(2B) Evidence of any crime(s) or act(s) committed subsequent to the crime(s) or act(s) ~~that are~~ or crime(s) under consideration as ~~or that were, the~~ grounds for denial, suspension, or revocation, which also could be considered as grounds for denial, suspension, or revocation under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crimes referred to in subdivision (1) or (2).

(C) The time that has elapsed since commission of the crime(s) or act(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(~~E4D~~) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.

(~~DE~~) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, or subsequent to the time of commission of the act(s).

(~~EF~~) Documents or testimony from credible individuals who have personal knowledge of the applicant's or licensee's life and activities subsequent to the time of commission of the crime(s) or act(s) who can attest to the applicant's or licensee's present fitness for licensure.

(~~EG~~) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(~~E5H~~) Other relevant ~~e~~Evidence, if any, of rehabilitation submitted by the applicant or licensee. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion program if the crime(s) or act(s) related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s) or act(s) demonstrated the applicant's or licensee's inability to control one's temper.

(b) When considering the suspension or revocation of a contractor's license on the grounds that the licensee has been convicted of a crime, the Board, in evaluating the licensee's rehabilitation and present eligibility for a license or home improvement salesman's registration will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

~~(3)The time that has elapsed since commission of the act(s) or offense(s).~~

~~(4)Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.~~

~~(5)If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.~~

~~(6)Evidence, if any, of rehabilitation submitted by the licensee.~~

~~(e)~~ When considering a petition for reinstatement of the license of a contractor, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection ~~(b)~~.

NOTE: Authority cited: Sections 482 and 7008, Business and Professions Code. Reference: Sections 480, 482, 490, 496, 7066, and 7069 , 7073, 7123, and 7124, Business and Professions Code.

Amend Section 869.9 as follows:

§ 869.9 Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure.

For an applicant who is denied licensure pursuant to subdivision (a) of Section 480 of the Business and Professions Code, the date of reapplication on which an individual who was denied a license may reapply for a license shall be set by the registrar at not less than one year nor more than five years after the denial. When computing the date for reapplication, the time shall commence from the effective date of the decision if an appeal is made or from the service of the notice under Section 485(b) if a request for hearing is not made. The registrar will consider the following criteria when setting the reapplication date of an individual who was denied a license:

(a) Subject to the provisions of subsection (b), an applicant may be eligible for reapplication if he or she meets the following criteria:

(1) For felony convictions that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, seven (7) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional criminal activity or substantially-related acts.

(2) For misdemeanor convictions that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, three (3) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional criminal activity or substantially-related acts.

(3) For acts that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, three (3) years have passed from the time of commission of the act(s), without the occurrence of criminal activity or additional substantially-related acts.

(b) The amount of time needed to demonstrate eligibility for reapplication under subsection (a) may be increased or decreased by taking into account the following:

(1) The nature and severity of the crime(s) or act(s) that were the grounds for denial.

(2) Evidence of any crime(s) or act(s) committed subsequent to the crime(s) or act(s) that were the grounds for denial, which also could be considered as grounds for denial.

(3) [The time that has elapsed since commission of the crime\(s\) or act\(s\) that were the grounds for denial.](#)

(34) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(45) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, or subsequent to the time of commission of the act(s).

(56) Documents or testimony from credible individuals who have personal knowledge of the applicant's life and activities subsequent to the time of commission of the crime(s) or act(s) who can attest to the applicant's present fitness for licensure.

(67) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(78) Other relevant evidence, if any, of eligibility for reapplication submitted by the applicant. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion program if the crime(s) or act(s) related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s) or act(s) demonstrated the applicant's inability to control one's temper.

(c) Nothing in this section shall preclude the registrar from denying the license of an applicant who was previously denied a license and who is eligible for reapplication in accordance with this section.

NOTE: Authority cited: Sections 482, 7008, and 7073, Business and Professions Code. Reference: Sections 480, 482, 486, 496, 7066, 7069, 7073, and 7124, Business and Professions Code.